IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 1014 of 1986

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

==========

GUJARAT STATE ROAD TRANSPORT CORPORATION - Appellant(s)
Versus
VAGHARI RAMCHANDDAS MOHANLAL & 4 - Defendant(s)

==========

Appearance :
MR MD PANDYA for Appellant(s) : 1,
NOTICE SERVED for Defendant(s) : 1 - 2.
(MR MH SHAIKH) for Defendant(s) : 3 - 4.
MR PV NANAVATI for Defendant(s) : 5,
MR VIBHUTI NANAVATI for Defendant(s) : 5,

==========

CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 26/07/2006

ORAL JUDGMENT

1.0 By way of this appeal, the appellant has challenged the judgment and award of the Motor accident Claims Tribunal (Aux.), Mehsana passed in M.A.C.P. No.403 of 1982 dated 27.02.1985.

2.0 The brief facts of the case are that on 28.03.1982, when the present opponent No.1 was traveling as a passenger in a bus driven by

present opponent No.2 and owned by the present appellant, the said bus met with an accident with a truck driven by present opponent No.3, owned by present opponent No.4 and insured by present opponent No.5. On account of the said accident, opponent No.1 received serious bodily injuries. Therefore, he filed a petition claiming an amount of Rs.50,000/- by way of compensation.

2.1 In the said petition, after hearing the parties, the Tribunal passed the judgment and award which is under challenge in this appeal.

3.0 Learned Advocate for the appellant has submitted that the Tribunal has committed an error by awarding Rs.15,000/- under the head of financial loss due to disability. He has further submitted that the Tribunal ought not to have applied multiplier of 10 years. Hence, the impugned Judgment and award deserves to be quashed and set aside.

4.0 Heard. On perusal of the 'Panchnama' (Exh.25) of the scene of offence it appears that the breadth of the tar road is about 12 feet at the place of incident with 'Kacha' strips of about 10 feet on the both the sides of the said road. From the said document it also transpires that the bus in question was lying on the wrong side of the ride, and hence, the Tribunal has justified in holding that the opponent No.2 was solely responsible for accident in question.

4.1 By passing the impugned judgment and award, the Tribunal has awarded an amount of Rs.15,000/- under the head of financial loss on account of disability. The said figure has been arrived at by the Tribunal by taking monthly loss at Rs.1,500/- and by applying a multiplier of 10 years. It may be noted that in support of his claim for income from agriculture and cloth business, the opponent No.1 has not produced any cogent and satisfactory documentary evidence. I am, therefore, of the opinion that taking into

consideration the fact that the appellant was about 56 years, the Tribunal ought to have applied a multiplier of 8 years instead of 10. Hence, the appellant shall be entitled for an amount of Rs.(1500 X 8) = 12,000/-.

5.0 In the result, the appeal is partly allowed. The appellant shall be entitled for an amount of Rs.12,000/- under the head of financial loss on account of disability, instead of Rs.15,000/-. Remaining Rs.3,000/- will be refunded to the appellant-Transport Corporation. The awarded amount shall be disbursed as per the direction of the Tribunal. The judgment and award of the Motor accident Claims Tribunal (Aux.), Mehsana passed in M.A.C.P. No.403 of 1982 dated 27.02.1985 is modified to the aforesaid extent. Rest of the judgment and award is confirmed. No order as to costs.

(K.S. Jhaveri,J.)

Umesh/